



UNITED STATES DEPARTMENT OF COMMERCE
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OCT 29 2003 Date October 20, 2003

Director's Office
Group 3700

In re Application of
Weber et al.

:Petition Under 1.181
:And 1.193 Requesting
:WITHDRAWAL Of NEW
:GROUNDS OF REJECTION IN
:EXAMINERS ANSWER HOLDING

08/675,280

Filed: July 1, 1996

For: Construction of Phase Change
Material Embedded Electronic
Circuit Boards

Receipt is acknowledged of the following papers:

Appellants timely filed Petition under #7 CFR 1.181 and 1.193 Requesting the withdrawal of alleged new grounds of rejection in the Examiners Answer mailed October 02, 2002
The petition is Dismissed.

DISCUSSION

Appellants Petition Under 37 CFR 1.181 and 1.193 has been considered.

Appellants allege that the Primary Examiner raised a New Grounds of Rejection in the Examiners Answer issued October 02, 2002 paper number 49. Appellants points out that in the subject Examiners Answer on page 7 lines 7-8 the examiner states in part in formulating a 35 USC 103 rejection for claims 25 and 35:

"..also there is no written disclosure that teaches one how to physically coupled the matrix to a container...."

The Appellants feel that this language is technically setting forth a new grounds of rejection since these comments relating to

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the written disclosure did not appear in the examiners final rejection.

After a close reading of final rejection and examiners answer, it appears that the examiner did indeed make the alleged assertions regarding the written disclosure, however no formal rejection under 35 USC 112 first paragraph was set forth in the record regarding the "physically coupling" language in the examiners final rejection of claims 25 and 35.

The record appears to show that the comments set forth by the examiner where presented to rebut Appellants position that the cited prior art to Telkes does not disclose a matrix coupled physically a container. The examiner in an attempt to establish that Telkes does in fact show a matrix physically coupled to a container wall has pointed out that the originally filed disclosure as it pertains to the elected invention of Fig 2, does not disclose any means for attaching the matrix to the wall of the container plate. (see specification Page 7 lines 15 to 25). Given this observation the examiner has taken the position that if appellants feel his claimed matrix is "physically coupled" to a container as recited in claims 25 and 35, than the matrix disclosed in the cited reference to Telkes should also be considered as "physically couple to a container" given that it also does not disclose a means of attaching the matrix to a wall.

After careful review, that the examiner did not raise a new grounds of rejection in the examiners answer mailed October 02, 2002 and therefore the Petition is hereby Dismissed.

Petitioners may file a renewed petition, without fee, addressing the point raised above. Any request for reconsideration of this decision must be submitted within TWO(2) MONYHS from the mail date of this decision , 37 CFR 1.181(f). No extensions of time under 37 CFR 1/136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181"

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